APPEAL NO. 021758
FILED AUGUST 21, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on June 11, 2002. The hearing officer determined that the appellant (claimant) did not sustain a compensable repetitive trauma injury, with a date of injury of _____, and that he did not have disability. The claimant appealed, arguing that the hearing officer's determinations are against the great weight and preponderance of the evidence. Respondent (carrier) responds and urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant did not sustain a compensable repetitive trauma injury, with a date of injury of _____. The issue presented a question of fact for the hearing officer. Pursuant to Section 410.165(a), the hearing officer is the sole judge of the weight and credibility of the evidence. There was conflicting evidence on the issue of whether the claimant was injured as a result of performing repetitively traumatic activities at work that would produce a herniated disk. The hearing officer was not persuaded that the claimant sustained his burden of proving that he sustained a compensable injury. Nothing in our review of the record reveals that his determination in that regard is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm his determination that the claimant did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

The claimant also asserts that the hearing officer erred in admitting Carrier's Exhibit Nos. 3 and 5 into evidence. To obtain reversal of a judgment based on the hearing officer's admission of evidence, an appellant must first show that the admission or exclusion was, in fact, error and also that the error was reasonably calculated to cause and probably did cause the rendition of an improper judgment. Texas Workers' Compensation Commission Appeal No. 92241, decided July 24, 1992; *see also* Hernandez v. Hernandez, 611 S.W.2d 732 (Tex. Civ. App.-San Antonio 1981, no writ). The hearing officer determined, given all the circumstances, that the carrier timely exchanged Carrier's Exhibit Nos. 3 and 5. As such, we cannot agree that the hearing officer erred in admitting those exhibits.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **AMERICAN CASUALTY COMPANY OF READING, PENNSYLVANIA** and the name and address of its registered agent for service of process is

CT CORPORATION SYSTEM
350 NORTH ST. PAUL
DALLAS, TEXAS 75201.

_____
Elaine M. Chaney
Appeals Judge

CONCUR:

_____
Judy L. S. Barnes
Appeals Judge

_____
Robert W. Potts
Appeals Judge